

Proposed Permanent Rules Relating to Power Plant Siting

**4400.0200 DEFINITIONS.**

Subpart 1. **Scope.** As used in this chapter, the following terms have the meanings given them.

Subp. 2. **Act.** "Act" means the Power Plant Siting Act of 1973, as amended, Minnesota Statutes, sections 116C.51 to 116C.69.

Subp. 2a. **Associated facilities.** "Associated facilities" means buildings, equipment, and other physical structures that are necessary to the operation of a large electric power generating plant or a high voltage transmission line.

Subp. 3. **Board.** "Board" means the Minnesota Environmental Quality Board.

Subp. 3a. **Chair.** "Chair" means the person who is the chair of the Environmental Quality Board.

Subp. 4. **See repealer.**

Subp. 4a. **Certified HVTL list.** "Certified HVTL list" means the transmission projects certified by the Public Utilities Commission as priority projects under Minnesota Statutes, section 216B.2425.

Subp. 5. **See repealer.**

Subp. 6. ~~**See repealer.**~~ Developed portion of the plant site. "Developed portion of the plant site" means the portion of the LEPGP site that is required for the physical plant and associated facilities. ~~, exclusive of makeup water storage reservoirs or cooling ponds,~~ where structures or other facilities or land uses necessary for plant operation preclude crop ~~production.~~

Subp. 6a. **Environmental assessment.** "Environmental assessment" means a written document that describes the human and environmental impacts of a proposed large electric power generating plant or high voltage transmission line and alternative routes or sites and methods to mitigate such impacts.

1 Subp. 6b. **Environmental impact statement or EIS.** "Environmental impact statement"  
2 or "EIS" means a detailed written statement that describes proposed high voltage  
3 transmission lines and large electric power generating plants and satisfies the requirements  
4 of Minnesota Statutes, section 116D.04.

5 Subp. 7. **See repealer.**

6 Subp. 7a. **EQB.** "EQB" means the entire environmental quality board, including the  
7 board and staff.

8 Subp. 8. **High voltage transmission line; or HVTL.** "High voltage transmission line"  
9 or "HVTL" means a conductor of electric energy and associated facilities designed for and  
10 capable of operating at a nominal voltage of 100 kilovolts or more either immediately or  
11 without significant modification. Associated facilities shall include, but not be limited to,  
12 insulators, towers, substations, and terminals.

13 Subp. 9. **Large electric power facilities.** "Large electric power facilities" means high  
14 voltage transmission lines and large electric power generating plants.

15 Subp. 10. **Large electric power generating plant or LEPGP.** "Large electric power  
16 generating plant" or "LEPGP" means electric power generating equipment and associated  
17 facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.  
18 Associated facilities shall include, but not be limited to, coal piles, cooling towers, ash  
19 containment, fuel tanks, water and wastewater treatment systems, and roads.

20 Subp. 11. **See repealer.**

21 Subp. 11a. **Mail.** "Mail" means either the United States mail or electronic mail by  
22 e-mail, unless another law ~~shall~~ requires a specific form of mailing.

23 Subp. 12. **Person.** "Person" means any individual, partnership, joint venture, private or  
24 public corporation, association, firm, public service company, cooperative, political  
25 subdivision, municipal corporation, government agency, public utility district, or any other  
26 entity, public or private, however organized.

27 Subp. 13. **See repealer.**

28 Subp. 14. **See repealer.**

29 Subp. 15. **Right-of-way.** "Right-of-way" means the land interest required within a route  
30 for the construction, maintenance, and operation of a high voltage transmission line.

1 Subp. 16. **Route.** "Route" means the location of a high voltage transmission line  
2 between two end points. A route may have a variable width of up to 1.25 miles within  
3 which a right-of-way for a high voltage transmission line can be located.

4 Subp. 17. **Route segment.** "Route segment" means a portion of a route.

5 Subp. 18. **Site.** "Site" means an area of land required for the construction, maintenance,  
6 and operation of a large electric power generating plant.

7 Subp. 19. **See repealer.**

8 Subp. 20. **Utility.** "Utility" means any entity engaged or intending to engage in this state  
9 in the generation, transmission, or distribution of electric energy including, but not limited  
10 to, a private investor owned utility, a cooperatively owned utility, a public or municipally  
11 owned utility, a limited liability company, or a private corporation.

12 **4400.0300 PURPOSE AND AUTHORITY.**

13 Parts 4400.0200 to 4400.8000 are prescribed by the Minnesota Environmental Quality  
14 Board pursuant to the authority granted to the board in the Power Plant Siting Act, as  
15 amended, Minnesota Statutes, sections 116C.51 to 116C.69, to give effect to the purposes  
16 of the act.

17 It is the purpose of the act and the policy of the state to locate large electric power  
18 generating plants and high voltage transmission lines in an orderly manner compatible with  
19 environmental preservation and the efficient use of resources. In accordance with this  
20 policy, the board shall choose locations that minimize adverse human and environmental  
21 impact while ensuring continuing electric power system reliability and integrity and  
22 ensuring that electric energy needs are met and fulfilled in an orderly and timely fashion.  
23 The board shall provide for broad spectrum citizen participation as a principle of operation.  
24 To ensure effective citizen participation, the board shall maintain a public education  
25 program on, but not limited to, the considerations identified in Minnesota Statutes, section  
26 116C.57, subdivision 4.

27 **Part 4400.0350. APPLICABILITY.**

28 Minnesota Rules chapter 4400 establishes the requirements for the processing of permit  
29 applications by the Environmental Quality Board for large electric power generating plants  
30 and high voltage transmission lines. Requirements for environmental review of such

1 | projects before the Public Utilities Commission are established in the applicable  
2 | requirements of Minnesota Rules chapter 4410.

3 | **4400.0400 PERMIT REQUIREMENT.**

4 | Subpart 1. **Site permit.** No person may construct a large electric power generating plant  
5 | without a site permit from the board. A large electric power generating plant may be  
6 | constructed only on a site approved by the board.

7 | Subp. 2. **Route permit.** No person may construct a high voltage transmission line  
8 | without a route permit from the board. A high voltage transmission line may be  
9 | constructed only within a route approved by the board.

10 | Subp. 3. **Expansion of existing facility.**

11 | A. No person shall increase the voltage of a HVTL without a route permit or other  
12 | approval from the EQB.

13 | B. No person shall increase the voltage of a transmission line under 100 kilovolts  
14 | to over 100 kilovolts without a route permit from the EQB.

15 | C. Except as provided in part 4400.0650 or 4400.3820, no person shall increase the  
16 | generating capacity or output of an existing LEPP without a permit from the board.

17 | D. No person shall increase the generating capacity or output of an electric power  
18 | plant from under 50 megawatts to more than 50 megawatts without a site permit from the  
19 | EQB.

20 | Subp. 4. **Local authority.** A site permit from the board is not required for a large  
21 | electric power generating plant that is permitted by local units of government under  
22 | Minnesota Statutes, section 116C.576. A route permit from the board is not required for a  
23 | high voltage transmission line that is permitted by local governmental authorities under  
24 | Minnesota Statutes, section 116C.576.

25 | Subp. 5. **Commence construction.** No person may commence construction of a large  
26 | electric power generating plant or a high voltage transmission line until a permit has been  
27 | issued by the board or by the appropriate local units of government if local review is  
28 | sought. "Commence construction" means to begin or cause to begin as part of a  
29 | continuous program the placement, assembly, or installation of facilities or equipment, or  
30 | to conduct significant physical site preparation or right-of-way preparation work for

1 installation of facilities or equipment. Conducting survey work or collecting geological  
2 data or contacting landowners to discuss possible construction of a power plant or  
3 transmission line is not commencement of construction.

4 **4400.0500 SMALL PROJECTS.**

5 Subpart 1. **No EQB permit required.** A permit from the EQB is not required to  
6 construct a power plant of less than 50 megawatts or a transmission line of less than 100  
7 kilovolts. Proposers of such projects must obtain whatever approvals may be required by  
8 local, state, or federal units of government with jurisdiction over the project.

9 Subp. 2. **Environmental review.** Proposers of power plants of less than 50 megawatts  
10 or transmission lines of less than 100 kilovolts must comply with the environmental review  
11 requirements of chapter 4410 and Minnesota Statutes chapter 116D.

12 **4400.0650 EXCEPTIONS TO PERMITTING REQUIREMENT FOR CERTAIN**  
13 **EXISTING FACILITIES.**

14 Subpart 1. **No permit required.** The following projects are not considered construction  
15 of a large electric power generating plant or high voltage transmission line and may be  
16 constructed without a permit from the board:

17 A. equipment additions at an existing substation that do not require expansion of the  
18 land needed for the substation and do not involve an increase in the voltage or changes in  
19 existing transmission lines, except up to the first five transmission line structures outside  
20 the substation can be moved to accommodate the equipment additions provided the  
21 structures are not moved more than 500 feet from the existing right-of-way;

22 B. high voltage transmission lines:

23 (1) maintenance or repair of a high voltage transmission line within an existing  
24 right-of-way;

25 (2) reconductoring or reconstruction of a transmission line with no change in voltage  
26 and no change in right-of-way, provided any new structures that are installed are not  
27 designed for and capable of operation at higher voltage; or

28 (3) relocation of a high voltage transmission line that is required by a local or state  
29 agency as part of road, street, or highway construction.

30 C. large electric power generating plants:

31 (1) maintenance or repair of a large electric power generating plant;

1 (2) modification of a large electric power generating plant to increase efficiency as  
2 long as the capacity of the plant is not increased more than ten percent or more than 100  
3 megawatts, whichever is greater, and the modification does not require expansion of the  
4 plant beyond the developed portion of the plant site. If a subsequent modification results  
5 in a total of more than 100 megawatts of additional capacity, this provision does not apply.  
6 An increase in efficiency is a reduction in the amount of BTUs [British Thermal Units]  
7 required to produce a kilowatt hour of electricity at the facility; or

8 (3) refurbishment of a large electric power generating plant that does not expand the  
9 capacity of the plant or expand the plant beyond the developed portion of the plant site and  
10 the refurbishment does not require a certificate of need from the public utilities  
11 commission; or

12 (4) conversion of the fuel source of a large electric power generating plant to natural  
13 gas, as long as the plant is not expanded beyond the developed portion of the plant site; or

14 (5) start-up of an existing large electric power generating plant that has been closed for  
15 any period of time at no more than its previous capacity rating and in a manner that does  
16 not involve a change in the fuel or an expansion of the developed portion of the plant site.

17 Subp. 2. **Minor alteration.** In the event a modification or other change in an existing  
18 substation, high voltage transmission line, or large electric power generating plant does not  
19 qualify for an exception under this part, the modification or change may qualify for a  
20 minor alteration under part 4400.3820.

21 Subp. 3. **Notice.** Any person proposing to move transmission line structures under  
22 subpart 1, Item A., or to reconductor or reconstruct a HVTL under Item B(2), or to  
23 implement changes to a LEPGP under Item C(2), C(3), C(4), or C(5), must notify the chair  
24 in writing at least thirty days before commencing construction on the modification or  
25 change.

26 ~~Subp. 4. **Local review.** Any project that does not require a permit from the EQB under~~  
27 ~~this part is also exempt from any requirement to obtain site or route approval from local~~  
28 ~~units of government with jurisdiction over the project pursuant to Minnesota Statutes~~  
29 ~~section 116C.576.~~

1 **4400.0710 JOINT PROCEEDING.**

2 The proposer of a large electric power generating plant that will also require a high  
3 voltage transmission line may elect to apply for both a site permit for the large electric  
4 power generating plant and a route permit for the high voltage transmission line in one  
5 application and in one process. The EQB on its own volition may elect to combine two  
6 pending applications if it is appropriate to consider both projects as part of one proceeding.  
7 An applicant may also combine an application for a pipeline routing permit if a natural gas  
8 or petroleum pipeline to a new large electric power generating facilities will be required.

9 **FULL PERMITTING PROCESS FOR LARGE ELECTRIC POWER**  
10 **GENERATING FACILITIES**

11 **4400.1025 PERMIT APPLICATION UNDER FULL PERMITTING PROCESS.**

12 Subpart 1. **Filing of application for permit.** A person seeking a site permit or route  
13 permit for a large electric power generating facility must file three copies of the application  
14 for the permit with the EQB. Upon acceptance of the application, the chair will advise the  
15 applicant of how many copies of the application must be submitted to the EQB.

16 Subp. 2. **Electronic copy.** A person filing an application for a site permit or route  
17 permit shall provide the EQB with an electronic version of the application suitable for  
18 posting on the EQB's Web page.

19 **4400.1050 PERMIT FEES.**

20 Subpart 1. **Requirement.** An applicant for a site permit or route permit shall pay a fee  
21 in accordance with Minnesota Statutes, section 116C.69. The estimated fee for processing  
22 the permit application must be determined in accordance with Minnesota Statutes, section  
23 116C.69.

24 Subp. 2. **Initial payment.** The applicant shall submit with the application 50 25  
25 percent of the total estimated fee, or up to 50 percent of the total estimated fee if the board  
26 determines that the additional percentage is reasonably necessary to complete the site  
27 evaluation and design process. ~~another lesser portion that the chair deems satisfactory.~~

28 The chair shall not process a permit application until the first portion of the fee is  
29 submitted. The EQB shall deposit all money received from the applicant for permit fees in  
30 a special account.

1 Subp. 3. **Additional payments.** The applicant shall pay an additional 25 percent of the  
2 fee within 90 days after the application has been accepted by the chair. Additional  
3 payments must be made within 30 days of notification by the chair that additional fees are  
4 necessary for completion of the permitting process. The board shall not make a final  
5 decision on a permit application if any assessed fees have not been paid.

6 Subp. 4. **Final accounting.** At the end of the permitting process, including any judicial  
7 review of the board's final decision, the EQB shall provide a final accounting to the  
8 applicant of the total cost of processing the permit application. The applicant may review  
9 all actual costs associated with processing an application and present objections to  
10 the board. The application fees paid by the applicant shall include the necessary and  
11 reasonable expenses incurred in processing the application, including, but not limited to,  
12 staff time, expenses for public notice and meetings and hearings, environmental review,  
13 administrative overhead, and legal expenses. The applicant shall make the final payment  
14 within 30 days of notification or the EQB shall refund any excess payments within 30 days  
15 of the final accounting.

16 **4400.1150 CONTENTS OF APPLICATION.**

17 Subpart 1. **Site permit for LEPGP.** An application for a site permit for a large electric  
18 power generating plant must contain the following information:

19 A. a statement of proposed ownership of the facility as of the day of filing and after  
20 commercial operation;

21 B. the precise name of any person or organization to be initially named as permittee or  
22 permittees and the name of any other person to whom the permit may be transferred if  
23 transfer of the permit is contemplated;

24 C. at least two proposed sites for the proposed large electric power generating plant and  
25 identification of the applicant's preferred site and the reasons for preferring the site;

26 D. a description of the proposed large electric power generating plant and all associated  
27 facilities, including the size and type of the facility;

28 E. the environmental information required under subpart 3;

29 F. the names of the owners of the property for each proposed site;

30 G. the engineering and operational design for the large electric power generating plant  
31 at each of the proposed sites;

1 H. a cost analysis of the large electric power generating plant at each proposed site,  
2 including the costs of constructing and operating the facility that are dependent on design  
3 and site;

4 I. an engineering analysis of each of the proposed sites, including how each site could  
5 accommodate expansion of generating capacity in the future;

6 J. identification of transportation, pipeline, and electrical transmission systems that will  
7 be required to construct, maintain, and operate the facility;

8 K. a listing and brief description of federal, state, and local permits that may be  
9 required for the project at each proposed site; and

10 L. a copy of the Certificate of Need for the project from the Public Utilities  
11 Commission or documentation that an application for a Certificate of Need has been  
12 submitted or is not required.

13 Subp. 2. **Route permit for HVTL.** An application for a route permit for a high voltage  
14 transmission line shall contain the following information:

15 A. a statement of proposed ownership of the facility at the time of filing the application  
16 and after commercial operation;

17 B. the precise name of any person or organization to be initially named as permittee or  
18 permittees and the name of any other person to whom the permit may be transferred if  
19 transfer of the permit is contemplated;

20 C. at least two proposed routes for the proposed high voltage transmission line and  
21 identification of the applicant's preferred route and the reasons for the preference;

22 D. a description of the proposed high voltage transmission line and all associated  
23 facilities including the size and type of the high voltage transmission line;

24 E. the environmental information required under subpart 3;

25 F. identification of land uses and environmental conditions along the proposed routes;

26 G. the names of ~~the each owners of the whose property is within any of the proposed~~  
27 routes for ~~of the land to be crossed by the high voltage transmission line within the two~~  
28 ~~routes proposed;~~

29 H. United States Geological Survey topographical maps or other maps acceptable to  
30 the chair showing the entire length of the high voltage transmission line on all proposed  
31 routes;

- 1 I. identification of existing utility and public rights-of-way along or parallel to the  
2 proposed routes that have the potential to share right-of-way with the proposed line;
- 3 J. the engineering and operational design concepts for the proposed high voltage  
4 transmission line, including information on the electric and magnetic fields of the  
5 transmission line;
- 6 K. cost analysis of each route, including the costs of constructing, operating, and  
7 maintaining the high voltage transmission line that are dependent on design and route;
- 8 L. a description of possible design options to accommodate expansion of the high  
9 voltage transmission line in the future;
- 10 M. the procedures and practices proposed for the acquisition and restoration of the  
11 right-of-way, construction, and maintenance of the high voltage transmission line;
- 12 N. a listing and brief description of federal, state, and local permits that may be  
13 required for the proposed high voltage transmission line; and
- 14 O. a copy of the Certificate of Need or the certified HVTL list containing the proposed  
15 high voltage transmission line or documentation that an application for a Certificate of  
16 Need has been submitted or is not required.
- 17 Subp. 3. **Environmental information.** An applicant for a site permit or a route permit  
18 shall include in the application the following environmental information for each proposed  
19 site or route to aid in the preparation of an environmental impact statement:
- 20 A. a description of the environmental setting for each site or route;
- 21 B. a description of the effects of construction and operation of the facility on human  
22 settlement, including, but not limited to, public health and safety, displacement, noise,  
23 aesthetics, socioeconomic impacts, cultural values, recreation, and public services;
- 24 C. a description of the effects of the facility on land-based economies, including, but  
25 not limited to, agriculture, forestry, tourism, and mining;
- 26 D. a description of the effects of the facility on archaeological and historic resources;
- 27 E. a description of the effects of the facility on the natural environment, including  
28 effects on air and water quality resources and flora and fauna;
- 29 F. a description of the effects of the facility on rare and unique natural resources;
- 30 G. identification of human and natural environmental effects that cannot be avoided if  
31 the facility is approved at a specific site or route; and

1 H. a description of measures that might be implemented to mitigate the potential  
2 human and environmental impacts identified in items A to G and the estimated costs of  
3 such mitigative measures.

4 **4400.1250 REVIEW OF APPLICATION.**

5 Subpart 1. **Review by chair.** Within ten working days of receipt of an application for a  
6 site permit or a route permit, the chair shall determine whether the application is complete  
7 and notify the applicant in writing of the acceptance or rejection of the application. If the  
8 chair rejects an application, the chair shall advise the applicant of the deficiencies in the  
9 application.

10 Subp. 2. **Resubmission of rejected application.** If the chair should reject an  
11 application, an applicant may decide to address the deficiencies identified by the chair and  
12 resubmit the application with additional information. In this event, the chair shall again  
13 review the application within ten days and determine whether the application is complete  
14 and advise the applicant of the chair's determination.

15 Subp. 3. **Reasons for rejection.** The chair shall not reject an application if the  
16 information that is missing can be obtained from the applicant within 60 days from the date  
17 of the application and the lack of the information will not interfere with the public's ability  
18 to review the proposed project.

19 Subp. 4. **Schedule.** The date of the chair's determination that an application is complete  
20 marks the start of the schedule for the board to make a final decision on a permit  
21 application.

22 **4400.1350 NOTICE OF PROJECT.**

23 Subpart 1. **Notification lists.** The EQB shall maintain the notification lists described in  
24 items A and B.

25 A. The EQB shall maintain a list of persons who want to be notified of the acceptance  
26 of applications for site permits or route permits. Any person may request to have his or her  
27 name or an organization's name included on the list. The EQB may from time to time  
28 request that persons whose names are on the list advise the EQB whether they want to  
29 remain on the list, and the EQB may delete any names for which an affirmative response is  
30 not received within a reasonable time. A person whose name has been removed may

1 request to have the name added back on the list. The EQB shall provide an applicant with  
2 the general list upon acceptance of an application.

3 B. The EQB shall maintain a project contact list for each project for which an  
4 application for a permit has been accepted. The project contact list must contain the names  
5 of persons who want to receive notices regarding the project. Any person may request to  
6 have his or her name or an organization's name included on a project contact list. The  
7 EQB may add a person's name to the list if the EQB believes the person would like to  
8 receive notices about the particular project. The EQB shall provide an applicant with the  
9 project contact list upon request.

10 Subp. 2. **Notification to persons on general list, to local officials, and to property**  
11 **owners.** Within 15 days after submission of an application, the applicant shall ~~mail send~~  
12 written notice of the submission ~~and a description of the proposed project to~~ the following  
13 people:

14 A. those persons whose names are on the general list maintained by the EQB for  
15 this purpose. ~~The notice must also advise those persons where a copy of the application~~  
16 ~~may be reviewed and how a copy may be obtained, and that persons who want to continue~~  
17 ~~to receive future notices regarding the matter must notify the EQB of such intent and~~  
18 ~~request that their names be placed on the project contact list.;~~

19 B. each regional development commission, county, incorporated municipality, and  
20 township in which any part of the site or route or any alternative is proposed to be located; and

21 C. each owner whose property is adjacent to any of the proposed sites for a large  
22 electric power generating plant or within any of the proposed routes for a high voltage  
23 transmission line. For purposes of giving notice under this item, owners are those persons  
24 shown on the records of the county auditor or, in any county where tax statements are  
25 mailed by the county treasurer, on the records of the county treasurer, or any other list of  
26 owners approved by the chair.

27 Subp. 3. Content of notice. The notice mailed under subpart 2 shall contain the  
28 following information:

- 1 A. A description of the proposed project, including a map showing the general area  
2 of the proposed site or proposed route and each alternative.
- 3 B. A statement that a permit application has been submitted to the EQB and the  
4 name of the permit applicant and information regarding how a copy of the application may  
5 be obtained.
- 6 C. A statement that the permit application will be considered by the EQB under the  
7 provisions of this chapter and the Power Plant Siting Act and describing the time periods  
8 for the EQB to act.
- 9 D. A statement that the EQB will hold a public meeting within sixty days and the  
10 date of the meeting if it is known at the time of the mailing.
- 11 E. The manner in which the EQB will conduct environmental review of the  
12 proposed project, including the holding of a scoping meeting at which additional  
13 alternatives to the project may be proposed.
- 14 F. The name of the EQB staff member who has been appointed by the chair to  
15 serve as the public advisor, if known, or otherwise, a general contact at the EQB.
- 16 G. The manner in which persons may register their names with the EQB on the  
17 project contact list.
- 18 H. A statement that a public hearing will be conducted after the EIS is prepared.
- 19 I. A statement indicating whether a certificate of need or other authorization from  
20 the Minnesota Public Utilities Commission is required for the project and the status of the  
21 matter if such authorization is required.
- 22 J. A statement indicating whether the applicant may exercise the power of eminent  
23 domain to acquire the land necessary for the project and the basis for such authority.

1 | K. Any other information requested by the chair to be included in the notice.

2 | Subp. 34. **Publication of notice.** Within 15 days after submission of an application, the  
3 | applicant shall publish notice in a legal newspaper of general circulation in each county in  
4 | which a site, route, or any alternative is proposed to be located that an application has been  
5 | submitted and a description of the proposed project. The notice must also state where a  
6 | copy of the application may be reviewed.

7 | ~~Subp. 4. **Notification of local officials.** Within 15 days after submission of an~~  
8 | ~~application, the applicant shall send a copy of the application by certified mail to each~~  
9 | ~~regional development commission, county, incorporated municipality, and township in~~  
10 | ~~which any part of the site or route or any alternative is proposed to be located.~~

11 | ~~Subp. 5. **Notification of property owners.** Within 15 days after submission of an~~  
12 | ~~application, the applicant shall send written notice of the submission and a description of~~  
13 | ~~the proposed project to each owner whose property is adjacent to any of the proposed sites~~  
14 | ~~for a large electric power generating plant or within any of the proposed routes for a high~~  
15 | ~~voltage transmission line. The notice must also advise the owners where a copy of the~~  
16 | ~~application may be reviewed and how a copy may be obtained. For purposes of giving~~  
17 | ~~notice under this subpart, owners are those persons shown on the records of the county~~  
18 | ~~auditor or, in any county where tax statements are mailed by the county treasurer, on the~~  
19 | ~~records of the county treasurer, or any other list of owners approved by the chair.~~

20 | Subp. 65. **Confirmation of notice.** Within 30 days after providing the requisite notice,  
21 | the applicant shall submit to the EQB documentation that all notices required under this  
22 | part have been given. The applicant shall document the giving of the notice by providing  
23 | the EQB with affidavits of publication or mailing and copies of the notice provided.

24 | Subp. 76. **Failure to give notice.** The failure of the applicant to give the requisite notice  
25 | does not invalidate any ongoing permit proceedings provided the applicant has made a  
26 | bona fide attempt to comply, although the chair may extend the time for the public to  
27 | participate if the failure has interfered with the public's right to be informed about the  
28 | project.

29 | **4400.1450 PUBLIC ADVISOR.**

30 | Upon acceptance of an application for a site or route permit, the chair shall designate a  
31 | staff person to act as the public advisor on the project. The public advisor must be

1 available to answer questions from the public about the permitting process. The public  
2 advisor shall not give legal advice or other advice that may affect the legal rights of the  
3 person being advised, and the public advisor shall not act as an advocate on behalf of any  
4 person.

5 **4400.1550 PUBLIC MEETING.**

6 Subpart 1. **Scheduling public meeting.** Upon acceptance of an application for a site or  
7 route permit, the chair shall schedule a public meeting to provide information to the public  
8 about the proposed project and to answer questions and to scope the environmental impact  
9 statement. The public meeting must be held no later than 60 days after acceptance of the  
10 application. The public meeting must be held in a location that is convenient for persons  
11 who live near the proposed project.

12 Subp. 2. **Notice of public meeting.** The EQB shall give at least ten days' notice of the  
13 public meeting by mailing notice to persons whose names are on the project contact list  
14 maintained pursuant to part 4400.1350, subpart 1. The EQB shall also publish notice of  
15 the public meeting in a legal newspaper of general circulation in the area where the project  
16 is proposed to be located. If appropriate, the EQB may request the applicant to include  
17 notice of the public meeting in the notice to be provided by the applicant pursuant to part  
18 4400.1350.

19 Subp. 3. **Conduct of public meeting.** The chair shall appoint a person, who may be an  
20 EQB staff person, to conduct the public meeting. The public meeting must be conducted  
21 in an informal manner designed to encourage public participation. The public must be  
22 afforded an opportunity to present comments and ask questions. The EQB shall make  
23 available at the public meeting a copy of the application and other pertinent documents in  
24 the EQB files regarding the application. The staff shall explain the permitting process to  
25 the persons in attendance. A transcript of the meeting need not be maintained, although  
26 the EQB may elect to keep an audio recording of the meeting.

27 Subp. 4. **Applicant role.** The applicant shall provide representatives at the public  
28 meeting who are capable of answering general questions about the proposed project.

29 Subp. 5. **EIS scoping.** At the public meeting, the public must be provided an  
30 opportunity to comment on the scope of the environmental impact statement in accordance  
31 with part 4400.1700.

1 **4400.1600 CITIZEN ADVISORY TASK FORCE.**

2 Subpart 1. **Chair authority.** The board delegates to the chair the authority to appoint a  
3 citizen advisory task force. The chair shall determine whether to appoint such a task force  
4 as early in the process as possible. The chair shall establish the size of the task force and  
5 appoint its members in accordance with Minnesota Statutes, section 116C.59. The chair  
6 shall advise the board of the appointment of the task force at the next monthly board  
7 meeting.

8 Subp. 2. **Board decision.** If the chair decides not to appoint a citizen advisory task force  
9 and a person would like such a task force appointed, the person may request that the board  
10 create a citizen advisory task force and appoint its members. Upon receipt of such a  
11 request, the chair shall place the matter on the agenda for the next regular monthly board  
12 meeting.

13 Subp. 3. **Task force responsibilities.** Upon appointment of a citizen advisory task  
14 force, the chair or the board, whichever creates the task force, shall specify in writing the  
15 charge to the task force. The charge shall include the identification of additional sites or  
16 routes or particular impacts to be evaluated in the environmental impact statement. The  
17 chair or the board may establish additional charges, including a request that the task force  
18 express a preference for a specific site or route if it has one.

19 Subp. 4. **Termination of task force.** The task force expires upon completion of its  
20 charge, designation by the chair of alternative sites or routes to be included in the  
21 environmental impact statement, or the specific date identified by the chair or board in the  
22 charge, whichever occurs first.

23 **4400.1700 PREPARATION OF EIS.**

24 Subpart 1. **EIS required.** The EQB shall prepare an environmental impact statement  
25 on each proposed large electric generating plant and high voltage transmission line for  
26 which a permit application has been accepted by the chair.

27 Subp. 2. **Scoping process.** The EQB shall provide the public with an opportunity to  
28 participate in the development of the scope of the environmental impact statement by  
29 holding a public meeting and by soliciting public comments. The public meeting required  
30 under part 4400.1550 satisfies the requirement to hold a scoping meeting. The EQB shall  
31 provide a period of at least seven days from the day of the public meeting for the public to

1 submit comments on the scope of the EIS. The chair shall determine the scope of the  
2 environmental impact statement as soon after holding the public meeting as possible. The  
3 chair may elect to bring the matter of the scope of the EIS to the board for resolution.  
4 Within five days after the decision, the EQB shall mail notice of the scoping decision to  
5 those persons whose names are on either the general list or the project contact list. Once  
6 the chair has determined the scope of the environmental impact statement, the scope must  
7 not be changed except upon decision by the chair or the board that substantial changes  
8 have been made in the project or substantial new information has arisen significantly  
9 affecting the potential environmental effects of the project or the availability of reasonable  
10 alternatives.

11 Subp. 3. **Alternative sites or routes.** During the scoping process, a person may suggest  
12 alternative sites or routes to evaluate in the environmental impact statement. A person  
13 desiring that a particular site or route be evaluated shall submit to the EQB, during the  
14 scoping process, an explanation of why the site or route should be included in the  
15 environmental impact statement and any other supporting information the person wants the  
16 chair to consider. The chair shall provide the applicant with an opportunity to respond to  
17 each request that an alternative be included in the environmental impact statement. The  
18 chair shall include the suggested site or route in the scope of the environmental assessment  
19 only if the chair determines that evaluation of the proposed site or route will assist in the  
20 board's decision on the permit application.

21 Subp. 4. **Scope of EIS.** The scoping process must be used to reduce the scope and bulk  
22 of an environmental impact statement by identifying the potentially significant issues and  
23 alternatives requiring analysis and establishing the detail into which the issues will be  
24 analyzed. The scoping decision by the chair shall at least address the following:

- 25 A. the issues to be addressed in the environmental impact statement;
- 26 B. the alternative sites and routes to be addressed in the environmental impact  
27 statement; and
- 28 C. the schedule for completion of the environmental impact statement.

1 Subp. 5. **Matters excluded.** When the Public Utilities Commission has issued a  
2 Certificate of Need for a large electric power generating plant or high voltage transmission  
3 line or placed a high voltage transmission line on the certified HVTL list maintained by the  
4 commission, the environmental impact statement shall not address questions of need,  
5 including size, type, and timing; questions of alternative system configurations; or  
6 questions of voltage.

7 Subp. 6. **Draft EIS.** The draft environmental impact statement must be written in plain  
8 and objective language. The draft environmental impact statement shall follow the  
9 standard format for an environmental impact statement prescribed in part 4410.2300 to the  
10 extent the requirements of that rule are appropriate.

11 Subp. 7. **Public review.** Upon completion of the draft environmental impact statement,  
12 the EQB shall make the document available for public review by placing a copy of the  
13 document in a public library or other governmental office in each county where the  
14 proposed project may be located. The EQB shall send notice of the availability of the draft  
15 environmental impact statement to each person on the project contact list maintained by  
16 the board under part 4400.1350, subpart 1. The EQB shall also place a notice in the EQB  
17 Monitor of the availability of the draft environmental impact statement. The EQB shall  
18 post the environmental impact statement on the agency's Web page if possible.

19 Subp. 8. **Informational meeting.** The EQB shall schedule an informational meeting to  
20 provide an opportunity for the public to comment on the draft environmental impact  
21 statement. The meeting must not be held sooner than 20 days after the draft environmental  
22 impact statement becomes available. The meeting must be held in a location convenient to  
23 persons who live near the proposed project. The EQB shall send notice of the  
24 informational meeting to each person on the project contact list maintained by the EQB  
25 under part 4400.1350, subpart 1. The EQB shall also place notice in the EQB Monitor.  
26 The informational meeting may be held just prior to the holding of a contested case hearing  
27 on the permit application. The EQB shall hold the record on the environmental impact  
28 statement open for receipt of written comments for not less than ten days after the close of  
29 the informational meeting.

30 Subp. 9. **Final EIS.** The EQB shall respond to the timely substantive comments  
31 received on the draft environmental impact statement consistent with the scoping decision

1 and prepare the final environmental impact statement. The EQB may attach to the draft  
2 environmental impact statement the comments received and its response to comments  
3 without preparing a separate document. The EQB shall publish notice of the availability of  
4 the final environmental impact statement in the EQB Monitor and shall supply a press  
5 release to at least one newspaper of general circulation in the areas where the proposed  
6 sites or routes are located.

7 Subp. 10. **Adequacy determination.** The board shall determine the adequacy of the  
8 final environmental impact statement. The board shall not decide the adequacy for at least  
9 ten days after the availability of the final environmental impact statement is announced in  
10 the EQB Monitor. The final environmental impact statement is adequate if it:

11 A. addresses the issues and alternatives raised in scoping to a reasonable extent  
12 considering the availability of information and the time limitations for considering the  
13 permit application;

14 B. provides responses to the timely substantive comments received during the draft  
15 environmental impact statement review process; and

16 C. was prepared in compliance with the procedures in this chapter.

17 If the board finds that the EIS is not adequate, the board shall direct the staff to respond to  
18 deficiencies and to resubmit the revised EIS to the board as soon as possible.

19 Subp. 11. **Cost.** The applicant for a site permit or route permit shall pay the reasonable  
20 costs of preparing and distributing an environmental impact statement. The costs must not  
21 be assessed separately from the assessment under part 4400.1050 unless that assessment is  
22 inadequate to cover the board's reasonable costs of considering the permit application.

23 Subp. 12. **Environmental review requirements.** The requirements of chapter 4410 do  
24 not apply to the preparation or consideration of an environmental impact statement for a  
25 large electric power generating ~~power~~-plant or high voltage transmission line except as  
26 provided in this chapter.

27 **4400.1800 CONTESTED CASE HEARING.**

28 Subpart 1. **Hearing.** The EQB shall hold a contested case hearing after the draft  
29 environmental impact statement is prepared on all applications for a site permit or a route  
30 permit. The hearing must be conducted by an administrative law judge from the Office of  
31 Administrative Hearings pursuant to the contested case procedures of Minnesota Statutes,

1 chapter 14. Notice of the hearing must be given in accordance with Minnesota Statutes,  
2 section 116C.57, subdivision 2d. At least a portion of the hearing must be held in a county  
3 where the proposed large electric power generating plant or high voltage transmission line  
4 would be located.

5 Subp. 2. **Issues.** Once the Public Utilities Commission has determined questions of  
6 need, including size, type, and timing; questions of system configuration; and questions of  
7 voltage, those issues must not be addressed in the contested case hearing.

8 Subp. 3. **Joint hearing.** If the board determines that a joint hearing with the Public  
9 Utilities Commission to consider both permitting and need issues is feasible, more  
10 efficient, and may further the public interest, the board may decide to hold a joint hearing  
11 with the approval of the commission. The board may also elect to hold a joint hearing with  
12 other states pursuant to Minnesota Statutes, section 116C.53, subdivision 3.

13 **4400.1900 FINAL DECISION.**

14 Subpart 1. **Timing.** The board shall make a final decision on a site permit or a route  
15 permit application within 60 days after receipt of the report of the administrative law  
16 judge. A final decision must be made within one year after the chair's determination that  
17 an application is complete. The board may extend this time limit for up to three months  
18 for just cause or upon agreement of the applicant.

19 Subp. 2. **EIS adequacy.** The board shall not make a final decision on a permit until the  
20 board has found the environmental impact statement to be adequate.

21 Subp. 3. **Certificate of need decision.** The EQB shall not make a final decision on a  
22 permit for a project that requires a certificate of need from the Public Utilities Commission  
23 until the applicant shall have obtained the necessary approval from the PUC.

24 Subp. 4. **Notice.** The EQB shall publish notice of its final permit decision in the State  
25 Register within 30 days of the date the board makes the decision. The EQB shall also  
26 publish notice in the EQB Monitor. The EQB shall mail notice of its final permit decision  
27 to those persons whose names are on the project contact list. The EQB shall post notice of  
28 the final decision on the agency's Web page, if possible.

1       **ALTERNATIVE PERMITTING PROCESS FOR CERTAIN FACILITIES**

2       **4400.2000 ELIGIBLE QUALIFYING PROJECTS.**

3       Subpart 1. ~~Qualifying-Eligible projects.~~ An applicant for a site permit or a route permit  
4       for one of the following projects may elect to follow the procedures of parts 4400.2000 to  
5       4400.2950 instead of the full permitting procedures in parts 4400.1025 to 4400.1900:

- 6       A. large electric power generating plants with a capacity of less than 80 megawatts;
- 7       B. large electric power generating plants that are fueled by natural gas;
- 8       C. high voltage transmission lines of between 100 and 200 kilovolts;
- 9       D. high voltage transmission lines in excess of 200 kilovolts and less than five miles in  
10      length in Minnesota;
- 11      E. high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the  
12      distance of the line in Minnesota will be located along existing high voltage transmission  
13      line rights-of-way;
- 14      F. a high voltage transmission line service extension to a single customer between 200  
15      and 300 kilovolts and less than ten miles in length; and
- 16      G. a high voltage transmission line rerouting to serve the demand of a single customer  
17      when the rerouted line will be located at least 80 percent on property owned or controlled  
18      by the customer or the owner of the transmission line.

19      Subp. 2. **Notice to EQB.** An applicant for a permit for one of the qualifying projects in  
20      subpart 1, who intends to follow the procedures of parts 4400.2000 to 4400.2750, shall  
21      notify the EQB of such intent, in writing, at least ten days before submitting an application  
22      for the project.

23       **4400.2010 PERMIT APPLICATION FOR ALTERNATIVE PERMITTING**  
24       **PROCESS.**

25      Part 4400.1025, regarding submission of a permit application, applies to projects being  
26      considered under the alternative permitting process.

27       **4400.2050 PERMIT FEES.**

28      Part 4400.1050, regarding permit fees, applies to projects being considered under the  
29      alternative permitting process.

1 **4400.2100 CONTENTS OF APPLICATION.**

2 The applicant shall include in the application the same information required in part  
3 4400.1150, except the applicant need not propose any alternative sites or routes to the  
4 preferred site or route. If the applicant has rejected alternative sites or routes, the applicant  
5 shall include in the application the identity of the rejected sites or routes and an  
6 explanation of the reasons for rejecting them.

7 **4400.2200 REVIEW OF APPLICATION.**

8 Part 4400.1250 regarding the chair's review of the application, applies to projects being  
9 considered under the alternative permitting process.

10 **4400.2300 NOTICE OF PROJECT.**

11 Part 4400.1350, regarding obligations to give notice of the project, applies to projects  
12 being considered under the alternative permitting process.

13 **4400.2400 PUBLIC ADVISOR.**

14 Part 4400.1450, regarding appointment of a public advisor, applies to projects being  
15 considered under the alternative permitting process.

16 **4400.2500 PUBLIC MEETING.**

17 Subpart 1. **Public meeting.** Part 4400.1550, subparts 1 to 4, apply to projects being  
18 considered under the alternative permitting process.

19 Subp. 2. **Environmental assessment.** At the public meeting, the public shall be  
20 provided an opportunity to comment on the scope of the environmental assessment in  
21 accordance with part 4400.2750.

22 **4400.2650 CITIZEN ADVISORY TASK FORCE.**

23 Part 4400.1600, regarding the appointment of a citizen advisory task force, applies to  
24 projects being considered under the alternative permitting process.

25 **4400.2750 PREPARATION OF ENVIRONMENTAL ASSESSMENT.**

26 Subpart 1. **Environmental assessment required.** The EQB shall prepare an  
27 environmental assessment on each proposed large electric power generating plant and each  
28 proposed high voltage transmission line being reviewed under the alternative permitting  
29 process in parts 4400.2000 to 4400.2950. The environmental assessment must contain  
30 information on the human and environmental impacts of the proposed project and of

1 alternative sites or routes identified by the chair and shall address mitigating measures for  
2 all sites or routes considered.

3 **Subp. 2. Scoping Process.**

4 A. The EQB shall provide the public with an opportunity to participate in the  
5 development of the scope of the environmental assessment by holding a public meeting  
6 and by soliciting public comments. The public meeting required under part 4400.2500  
7 satisfies the requirement to hold a scoping meeting. The EQB shall mail notice of the  
8 meeting to those persons on either the general list or the project contact list at least ten  
9 days before the meeting. The EQB shall provide at least seven days from the day of the  
10 public meeting for the public to submit comments regarding the scope of the  
11 environmental assessment.

12 B. The chair shall include in the scope of the environmental assessment any  
13 alternative sites or routes proposed by the citizen advisory task force or by any member  
14 agency of the EQB prior to the close of the scoping period. During the scoping process,  
15 any person may suggest an alternative site or route to evaluate in the environmental  
16 assessment. A person desiring that a particular site or route be evaluated shall submit to  
17 the chair, during the scoping process, an explanation of why the site or route should be  
18 included in the environmental assessment and all supporting information the person wants  
19 the chair to consider. The chair shall provide the applicant with an opportunity to respond  
20 to each request that an alternative be included in the environmental assessment. The chair  
21 shall include the suggested site or route in the scope of the environmental assessment only  
22 if the ~~chair determines person has established~~ that evaluation of the proposed site or route  
23 will assist in the board's ultimate decision on the permit application. Any person may also  
24 suggest specific human or environmental impacts that should be included in the  
25 environmental assessment.

26 **Subp. 3. Scoping decision.** The chair shall determine the scope of the environmental  
27 assessment within ten days after close of the public comment period and shall mail notice  
28 of the scoping decision to those persons on the project contact list within five days after the  
29 decision. The chair may elect to bring the matter of the scope of the environmental  
30 assessment to the board for resolution. Once the chair has determined the scope of the  
31 environmental assessment, the scope shall not be changed except upon a decision by the

1 chair or the board that substantial changes have been made in the project or substantial new  
2 information has arisen significantly affecting the potential environmental effects of the  
3 project or the availability of reasonable alternatives. The chair shall also determine as part  
4 of the scoping process a reasonable schedule for completion of the environmental  
5 assessment. The scoping decision by the chair must identify:

6 | A. the alternatives sites or routes, if any, to be addressed in the environmental  
7 assessment;

8 B. any specific potential impacts to be addressed;

9 C. the schedule for completion of the environmental assessment; and

10 D. other matters to be included in the environmental assessment.

11 Subp. 4. **Content of environmental assessment.** The environmental assessment must  
12 include:

13 A. a general description of the proposed facility;

14 | B. a list of any alternatives sites or routes to the proposed project to be that are  
15 addressed;

16 | C. a discussion of the potential impacts of the proposed project and each alternative site  
17 or route on the human and natural environment;

18 D. a discussion of mitigative measures that could reasonably be implemented to  
19 eliminate or minimize any adverse impacts identified for the proposed project and each  
20 alternative site or route analyzed;

21 | E. an analysis of the feasibility of each alternative site or route considered;

22 F. a list of permits required for the project; and

23 G. a discussion of other matters identified in the scoping process.

24 Subp. 5. **Time frame for completion of environmental assessment.** The EQB shall  
25 complete the environmental assessment in accordance with the schedule established  
26 during the scoping process. In establishing the schedule for completion of the  
27 environmental assessment, the chair shall take into account any applicable statutory  
28 deadlines, the number and complexity of the alternatives and impacts to be addressed, the  
29 status of other proceedings affecting the project, and the interests of the public, the  
30 applicant, and the EQB.

1 Subp. 6. **Notification of availability environmental assessment.** Upon completion of  
2 the environmental assessment, the EQB shall publish notice in the EQB Monitor of the  
3 availability of the environmental assessment and mail notice of the availability of the  
4 document to those persons on the project contact list. The EQB shall provide a copy of the  
5 environmental assessment to any public agency with authority to permit or approve the  
6 proposed project. The EQB shall post the environmental assessment on the agency's Web  
7 page, if possible.

8 Subp. 7. **Matters excluded.** When the Public Utilities Commission has issued a  
9 Certificate of Need for a large electric power generating plant or high voltage transmission  
10 line or placed a high voltage transmission line on the certified HVTL list maintained by the  
11 commission, the environmental assessment shall not address questions of need, including  
12 size, type, and timing; questions of alternative system configurations; or questions of  
13 voltage.

14 Subp. 8. **No additional environmental review.** An environmental assessment must be  
15 the only state environmental review document required to be prepared by the EQB on a  
16 project qualifying for review under the alternative review process. No environmental  
17 assessment worksheet or environmental impact statement shall be required. Environmental  
18 review at the certificate of need stage before the Public Utilities Commission must be  
19 performed in accordance with parts 4410.7000 to 4410.7700.

20 Subp. 9. **Cost.** The cost of the preparation of an environmental assessment must be  
21 assessed to the applicant as part of the application fee pursuant to part 4400.1050.

22 **4400.2850 PUBLIC HEARING.**

23 Subpart 1. **Public hearing.** The EQB shall hold a public hearing once the  
24 environmental assessment has been completed. Notice of the hearing shall be given in  
25 accordance with Minnesota Statutes, section 116C.57, subdivision 2d. At least a portion of  
26 the hearing shall be held in a county where the proposed large electric power generating  
27 plant or high voltage transmission line would be located.

28 Subp. 2. **Hearing examiner.** The chair shall appoint a person to act as the hearing  
29 examiner at the public hearing. The hearing examiner may be an employee of the EQB.  
30 The hearing examiner shall set the date and place for the hearing and provide notice to the  
31 public. The hearing examiner may make such rulings as are required to conduct the

1 hearing in a fair, impartial, and expeditious manner, including the authority to maintain  
2 decorum at the hearing, to exclude repetitious or irrelevant testimony, to limit the amount  
3 of time for oral testimony, and to continue the hearing from time to time as needed.  
4 Persons may testify at the hearing without being first sworn under oath. The hearing  
5 examiner shall ensure that the record created at the hearing is preserved and transmitted to  
6 the board. An audio recording of the hearing must be made, unless the chair determines  
7 that a court reporter is appropriate. The hearing examiner shall not prepare a report or  
8 make any recommendation to the board unless the chair or the board requests the hearing  
9 examiner to do so.

10 Subp. 3. **Hearing procedure.** The hearing must be conducted in the following manner,  
11 although the hearing examiner may vary the order in which the hearing proceeds:

12 A. the staff shall make a brief presentation to describe the project, explain the process  
13 to be followed, and introduce documents to be included in the record, including the  
14 application, the environmental assessment, and various procedural documents;

15 B. the applicant shall introduce its evidence by way of testimony and exhibits;

16 C. the public shall be afforded an opportunity to make oral presentations, present  
17 documentary evidence, and ask questions of the applicant and staff;

18 D. the hearing examiner shall provide a period of not less than ten days for the  
19 submission of written comments into the record after the close of the hearing; and

20 E. the hearing examiner shall transmit the complete record created at the hearing,  
21 including all written comments, to the chair within five days of the close of the record,  
22 unless the hearing examiner has been requested by the chair or the board to prepare a  
23 report.

24 Subp. 4. **Issues.** Once the Public Utilities Commission has determined questions of  
25 need, including size, type, and timing; questions of system configurations; and questions of  
26 voltage, those issues must not be addressed in the contested case hearing.

27 Subp. 5. **Environmental assessment.** Interested persons may comment upon the  
28 environmental assessment at the public hearing. Comments on the environmental  
29 assessment shall become part of the record in the proceeding but the board shall not be  
30 required to revise or supplement the environmental assessment document.

1 **4400.2950 FINAL DECISION.**

2 Subpart 1. **Timing.** The board shall make a final decision on a site permit or a route  
3 permit application within 60 days after receipt of the record from the hearing examiner. A  
4 final decision must be made within six months after the chair's determination that an  
5 application is complete. The board may extend this time limit for up to three months for  
6 just cause or upon agreement of the applicant.

7 Subp. 2. **Completeness of environmental assessment.** At the time the board makes a  
8 final decision on the permit application, the board shall determine whether the  
9 environmental assessment and the record created at the public hearing address the issues  
10 identified in the scoping decision.

11 Subp. 3. **Certificate of need decision.** The EQB shall not make a final decision on a  
12 permit for a project that requires a certificate of need from the Public Utilities Commission  
13 until the applicant shall have obtained the necessary approval from the PUC.

14 Subp. 4. **Notice.** The EQB shall publish notice of its final permit decision in the State  
15 Register within 30 days of the day the board makes the decision. The EQB shall also  
16 publish notice in the EQB Monitor. The EQB shall mail notice of its final permit decision  
17 to those persons whose names are on the project contact list. The EQB shall post notice of  
18 the final decision on the agency's Web page, if possible.

19 **GENERAL PERMIT REQUIREMENTS**

20 **4400.3050 STANDARDS AND CRITERIA.**

21 No site permit or route permit shall be issued in violation of the site selection standards  
22 and criteria established in Minnesota Statutes, sections 116C.57 and 116C.575, and in rules  
23 adopted by the board. The board shall issue a permit for a proposed facility when the  
24 board finds, in keeping with the requirements of the Minnesota Environmental Policy Act,  
25 Minnesota Statutes chapter 116D, and the Minnesota Environmental Rights Act,  
26 Minnesota Statutes chapter 116B. that the facility is consistent with state goals to conserve  
27 resources, minimize environmental impacts, and minimize human settlement and other  
28 land use conflicts and ensures the state's electric energy security through efficient,  
29 cost-effective power supply and electric transmission infrastructure.

1 **4400.3150 FACTORS CONSIDERED.**

2 In determining whether to issue a permit for a large electric power generating plant or a  
3 high voltage transmission line, the board shall consider the following:

4 A. effects on human settlement, including, but not limited to, displacement, noise,  
5 aesthetics, cultural values, recreation, and public services;

6 B. effects on public health and safety;

7 C. effects on land-based economies, including, but not limited to, agriculture, forestry,  
8 tourism, and mining;

9 D. effects on archaeological and historic resources;

10 E. effects on the natural environment, including effects on air and water quality  
11 resources and flora and fauna;

12 F. effects on rare and unique natural resources;

13 G. application of design options that maximize energy efficiencies, mitigate adverse  
14 environmental effects, and could accommodate expansion of transmission or generating  
15 capacity;

16 H. use or paralleling of existing rights-of-way, survey lines, natural division lines, and  
17 agricultural field boundaries;

18 I. use of existing large electric power generating plant sites;

19 J. use of existing transportation, pipeline, and electrical transmission systems or  
20 rights-of-way;

21 K. electrical system reliability;

22 L. costs of constructing, operating, and maintaining the facility which are dependent on  
23 design and route;

24 M. adverse human and natural environmental effects which cannot be avoided; and

25 N. irreversible and irretrievable commitments of resources.

26 **4400.3250 FACTORS EXCLUDED.**

27 When the Public Utilities Commission has issued a Certificate of Need for a large  
28 electric power generating plant or a high voltage transmission line or placed a high voltage  
29 transmission line on the certified HVTL list maintained by the commission, questions of  
30 need, including size, type, and timing, questions of alternative system configurations, and

1 questions of voltage shall not be factors considered by the board in deciding whether to  
2 issue a permit for a proposed facility.

3 **4400.3350 PROHIBITED ROUTES.**

4 Subpart 1. **Wilderness areas.** No high voltage transmission line may be routed through  
5 state or national wilderness areas.

6 Subp. 2. **Parks and natural areas.** No high voltage transmission line may be routed  
7 through state or national parks or state scientific and natural areas unless the transmission  
8 line would not materially damage or impair the purpose for which the area was designated  
9 and no feasible and prudent alternative exists. Economic considerations alone do not  
10 justify use of these areas for a high voltage transmission line.

11 **4400.3450 PROHIBITED SITES.**

12 Subpart 1. **Prohibited sites.** No large electric power generating plant may be located in  
13 any of the following areas:

- 14 A. national parks;
- 15 B. national historic sites and landmarks;
- 16 C. national historic districts;
- 17 D. national wildlife refuges;
- 18 E. national monuments;
- 19 F. national wild, scenic, and recreational riverways;
- 20 G. state wild, scenic, and recreational rivers and their land use districts;
- 21 H. state parks;
- 22 I. nature conservancy preserves;
- 23 J. state scientific and natural areas; and
- 24 K. state and national wilderness areas.

25 Subp. 2. **Water use.** The areas identified in subpart 1 must not be permitted as a site for  
26 a large electric power generating plant except for use for water intake or discharge  
27 facilities. If the board includes any of these areas within a site for use for water intake or  
28 discharge facilities, it may impose appropriate conditions in the site permit to protect these  
29 areas for the purposes for which they were designated. The board shall also consider the  
30 adverse effects of proposed sites on these areas which are located wholly outside of the  
31 boundaries of these areas.

1 Subp. 3. **Site exclusions when alternative sites exist.** No large electric power  
2 generating plant may be located in any of the following areas unless there is no feasible  
3 and prudent alternative. Economic considerations alone do not justify approval of these  
4 areas. These areas are:

5 A. state registered historic sites;

6 B. state historic districts;

7 C. state wildlife management areas, except in cases where the plant cooling water is to  
8 be used for wildlife management purposes;

9 D. county parks;

10 E. metropolitan parks;

11 F. designated state and federal recreational trails;

12 G. designated trout streams; and

13 H. the rivers identified in Minnesota Statutes, section 85.32, subdivision 1.

14 Subp. 4. **Prime farmland exclusion.** No large electric power generating plant site may  
15 be permitted where the developed portion of the plant site, excluding water storage  
16 reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per  
17 megawatt of net generating capacity, or where makeup water storage reservoir or cooling  
18 pond facilities include more than 0.5 acres of prime farmland per megawatt of net  
19 generating capacity, unless there is no feasible and prudent alternative. Economic  
20 considerations alone do not justify the use of more prime farmland. "Prime farmland"  
21 means those soils that meet the specifications of Code of Federal Regulations 1980, title 7,  
22 section 657.5(a). These provisions do not apply to areas located within home rule charter  
23 or statutory cities; areas located within two miles of home rule charter or statutory cities of  
24 the first, second, and third class; or areas designated for orderly annexation under  
25 Minnesota Statutes, section 414.0325.

26 Subp. 5. **Sufficient water supply required.** No site may be designated that does not  
27 have reasonable access to a proven water supply sufficient for plant operation. No use of  
28 groundwater may be permitted where removal of groundwater results in material adverse  
29 effects on groundwater, groundwater dependent natural resources, or higher priority users  
30 in and adjacent to the area, as determined in each case. The use of groundwater for high

1 consumption purposes, such as cooling, must be avoided if a feasible and prudent  
2 alternative exists.

3 **4400.3550 PERMIT APPLICATION REJECTION.**

4 The chair shall reject a permit application at the time it is submitted if the application is  
5 for a facility to be located on a prohibited site or within a prohibited route or if the  
6 applicant fails to address in the application why no feasible and prudent alternative exists  
7 for sites or routes that may be authorized in such a situation.

8 **4400.3650 PERMIT CONDITIONS.**

9 Subpart 1. **Generally.** The board shall impose in any site permit for a large electric  
10 power generating plant or route permit for a high voltage transmission line such conditions  
11 as the board deems appropriate and are supported by the record.

12 Subp. 2. **HVTL permits.** When the board issues a permit for a route for a high voltage  
13 transmission line, the board shall specify the design, route, right-of-way preparation, and  
14 facility construction and operation it deems necessary. The board may impose a condition  
15 in the permit requiring the permittee to construct a high voltage transmission line that is  
16 capable of expansion in transmission capacity through multiple circuiting or design  
17 modifications.

18 **4400.3750 DELAY IN ROUTE OR SITE CONSTRUCTION.**

19 If construction and improvement of a route or site have not commenced four years after  
20 the permit has been issued by the board, the board shall suspend the permit. If at that time,  
21 or at a time subsequent, the permittee decides to construct the proposed large electric  
22 power generating facility or high voltage transmission line, the permittee shall certify to  
23 the board that there have been no significant changes in any material aspects of the  
24 conditions or circumstances existing when the permit was issued. The chair shall mail  
25 notice of receipt of the certification request to those persons on the general list at least  
26 seven days before the board's consideration of the matter, and the same notice to those  
27 persons on the project contact list if such a list exists. If the board determines that there are  
28 no significant changes, it shall reinstate the permit. If the board determines that there is a  
29 significant change, it may order a new hearing and consider the matter further, or it may  
30 require the permittee to file a new application.

1 **4400.3820 MINOR ALTERATION IN LARGE ELECTRIC POWER**  
2 **GENERATING PLANT OR HIGH VOLTAGE TRANSMISSION LINE.**

3 Subpart 1. **Applicability.** No person may make a minor alteration in a large electric  
4 power generating plant or high voltage transmission line without approval from the chair,  
5 unless the action is exempt from review under part 4400.0650. A minor alteration is a  
6 change in a large electric power generating plant or high voltage transmission line that  
7 does not result in significant changes in the human or environmental impact of the facility.  
8 The requirements of this part apply to those facilities that have been permitted by the EQB  
9 and to those facilities that were not permitted by the EQB but meet the definition of a large  
10 electric power generating plant or high voltage transmission line under applicable law. For  
11 those large electric power generating plants or high voltage transmission lines for which no  
12 permit has been issued by the EQB, this part applies to minor alterations in the facility as it  
13 exists on the effective date of parts 4400.0200 to 4400.8000.

14 Subp. 2. **Application.** A person seeking authorization to make a minor alteration in a  
15 large electric power generating plant or high voltage transmission line shall apply to the  
16 chair. The application shall be in writing and shall describe the alteration in the large  
17 electric power generating plant or high voltage transmission line to be made and the  
18 explanation why the alteration is minor. The chair shall mail notice of receipt of the  
19 application to those persons on the general list and to those persons on the project contact  
20 list if such a list exists. The chair shall provide at least a ten-day period for interested  
21 persons to submit comments on the application or to request that the matter be brought to  
22 the board for consideration.

23 Subp. 3. **Chair decision.** The chair shall decide within ten days after close of the  
24 public comment period whether to authorize the minor alteration, bring the matter to the  
25 board for consideration, or determine that the alteration is not minor and requires a full  
26 permitting decision. The chair may authorize the minor alteration but impose reasonable  
27 conditions on the approval. The chair shall notify the applicant in writing of the chair's  
28 decision and send a copy of the decision to any person who requested notification or filed  
29 comments on the application.

30 Subp. 4. **Local review.** For those large electric power generating plants or high voltage  
31 transmission lines for which no permit has been issued by the EQB, the owner or operator

1 of such unpermitted facilities may elect to seek approval of a minor alteration from the  
2 local unit of government if the facility qualifies for local review under Minnesota Statutes,  
3 section 116C.476.

4 **4400.3840 AMENDMENT OF PERMIT CONDITIONS.**

5 Subpart 1. **Authority.** The chair may amend any of the conditions in a site permit for a  
6 large electric power generating plant or in a route permit for a high voltage transmission  
7 line issued by the EQB upon request of any person.

8 Subp 2. **Process.** The person requesting an amendment of a condition in a site permit or  
9 a route permit shall submit an application to the chair in writing describing the amendment  
10 sought and the reasons for the amendment. The chair shall mail notice of receipt of the  
11 application to those persons on the general list and to those persons on the project contact  
12 list if such a list exists. The chair shall provide at least a ten-day period for interested  
13 persons to submit comments on the application or to request that the matter be brought to  
14 the board for consideration.

15 Subp. 3. **Decision.** The chair shall decide within ten days after close of the public  
16 comment period whether to approve the amendment request or to bring the matter to the  
17 board for consideration. The chair shall notify the applicant in writing of the chair's  
18 decision and send a copy of the decision to any person who requested notification or filed  
19 comments on the application.

20 **4400.3850 TRANSFER OF PERMIT.**

21 Subpart 1. **Application.** A permittee holding a large electric power generating plant site  
22 permit or a high voltage transmission line route permit may request the EQB to transfer its  
23 permit. The permittee shall provide the name of the existing permittee, the name and  
24 description of the entity to which the permit is to be transferred, the reasons for the  
25 transfer, a description of the facilities affected, and the proposed effective date of the  
26 transfer. The person to whom the permit is to be transferred shall provide the EQB with  
27 such information as the EQB shall require to determine whether the new permittee can  
28 comply with the conditions of the permit. The chair shall mail notice of receipt of the  
29 application to those persons on the general list as least seven days in advance of the  
30 board's consideration of the matter. The chair shall mail the same notice to persons on the  
31 project contact list if such a list exists.

1 Subp. 2. **Approval of transfer.** The board shall approve the transfer if the board  
2 determines that the new permittee will comply with the conditions of the permit. The  
3 board, in approving the transfer of a permit, may impose reasonable additional conditions  
4 in the permit as part of the approval. The board may decide to hold a public meeting to  
5 provide the public with an opportunity to comment on the request for the transfer prior to  
6 making a decision.

7 **4400.3950 REVOCATION OR SUSPENSION OF PERMIT.**

8 Subpart 1. **Initiation of action to revoke or suspend.** The board may initiate action to  
9 consider revocation or suspension of a permit on its own motion or upon the request of any  
10 person who has made a prima facie showing by affidavit and documentation that a  
11 violation of the act, this chapter, or the permit has occurred.

12 Subp. 2. **Hearing.** If the board initiates action to consider revocation or suspension of a  
13 permit, the board shall provide the permittee with an opportunity for a contested case  
14 hearing conducted by an administrative law judge from the Office of Administrative  
15 Hearings.

16 Subp. 3. **Finding of violation.** If the board finds that a violation of the act, this chapter,  
17 or the permit has occurred, it may revoke or suspend the permit, require the utility to  
18 undertake corrective or ameliorative measures as a condition to avoid revocation or  
19 suspension, or require corrective measures and suspend the permit. In determining the  
20 appropriate sanction, the board shall consider the following:

21 A. whether the violation will result in any significant additional adverse environmental  
22 effects;

23 B. whether the results of the violation can be corrected or ameliorated; and

24 C. whether a suspension or revocation of a permit or certificate will impair the utility's  
25 electrical power system reliability.

26 **EMERGENCY PERMIT**

27 **4400.4050 EMERGENCY PERMIT.**

28 Subpart 1. **Application for emergency permit.** Any utility whose electric power  
29 system requires the immediate construction of a large electric power generating plant or  
30 high voltage transmission line due to a major unforeseen event may apply to the board for  
31 an emergency permit. The application must contain the following information:

- 1       A. a description of the proposed large electric power generating plant or high voltage
- 2 transmission line;
- 3       B. an explanation of the major unforeseen event causing the emergency situation;
- 4       C. a discussion of the anticipated impacts on the electric system if the proposed facility
- 5 is not approved within 195 days;
- 6       D. a copy of the written notification to the Public Utilities Commission of the major
- 7 unforeseen event and the need for immediate construction; and
- 8       E. as much of the information required under part 4400.1150 as the utility has
- 9 available.

10       Subp. 2. **Public hearing.** The EQB shall hold a public hearing on the application for an

11 emergency permit. The hearing must be held within 90 days after the application is

12 submitted. The hearing must be held in accordance with part 4400.2850.

13       Subp. 3. **Final decision.** The board shall make a final decision on an emergency permit

14 within 195 days after the board's acceptance of the application. The board shall grant the

15 emergency permit if it finds the following:

- 16       A. a demonstrable emergency exists;
- 17       B. the emergency requires immediate construction;
- 18       C. adherence to the procedures and time schedules specified in Minnesota Statutes,
- 19 section 116C.57, would jeopardize the utility's electric power system or the utility's ability
- 20 to meet the electric needs of its customers in an orderly and timely manner;
- 21       D. the utility will implement mitigating measures to minimize the human and
- 22 environmental impacts of the facility; and
- 23       E. the utility will carry out the project in an expeditious manner consistent with the
- 24 emergency.

25       Subp. 4. **Permit conditions.** The board may impose reasonable conditions in an

26 emergency permit.

27       Subp. 5. **Permit fee.** The applicant for an emergency permit shall pay the same fee as

28 would be required for a regular permit for the same project.

1                   **LOCAL REVIEW**

2 4400.5000 LOCAL REVIEW OF PROPOSED FACILITIES.

3     Subpart 1. **Local review.** An applicant who seeks a site or route permit for one of the  
4 projects identified in subpart 2 has the option of applying to those local units of  
5 government that have jurisdiction over the site or route for approval to build the project. If  
6 local approval is granted, a site or route permit is not required from the board. If the  
7 applicant files an application with the EQB, the applicant shall be deemed to have waived  
8 its right to seek local approval of the project.

9     Subp. 2. Eligible projects.**Qualifying facilities.** An applicant may seek approval from a  
10 local unit of government to construct the following projects:

- 11     A. a large electric power generating plant with a capacity of less than 80 megawatts;
- 12     B. a large electric power generating plant of any size that burns natural gas and ~~is~~  
13 intended to be a peaking plant;
- 14     C. a high voltage transmission line of between 100 and 200 kilovolts;
- 15     D. a substation with a voltage designed for and capable of operation at a nominal  
16 voltage of 100 kilovolts or more;
- 17     E. a high voltage transmission line service extension to a single customer between 200  
18 and 300 kilovolts and less than ten miles in length; and
- 19     F. a high voltage transmission line rerouting to serve the demand of a single customer  
20 when at least 80 percent of the rerouted line will be located on property owned or  
21 controlled by the customer or the owner of the transmission line.

22     Subp. 3. **Notice to EQB.** Within ten days of submission of an application to a local unit  
23 of government for approval of an eligible project, the applicant shall notify the chair in  
24 writing that the applicant has elected to seek local approval of the proposed project.

25 Within the same ten day period, the applicant shall mail notice to those persons on the  
26 general notification list that a permit has been applied for from the local unit of  
27 government for the project and shall provide a description of the project and the name of a  
28 person with the local unit of government to contact for more information.

1 Subp. 4. **Referral to EQB.** A local unit of government with jurisdiction over a project  
2 identified in this section to whom an applicant has applied for approval to build the project  
3 may request the EQB to assume jurisdiction and make a decision on a site or route permit.  
4 A local unit of government shall file the request with the board within 60 days after an  
5 application for the project has been filed with any one local unit of government. If one of  
6 the local units of government with jurisdiction over the project requests the board to  
7 assume jurisdiction, jurisdiction over the project transfers to the board and the applicant  
8 shall file under the applicable provisions of this chapter for a permit from the board.

9 Subp. 5. **Environmental review.** A local unit of government that maintains jurisdiction  
10 over a qualifying project shall prepare an environmental assessment on the project ~~in~~  
11 ~~accordance with the requirements of part 4400.2750.~~ The local unit of government shall  
12 afford the public an opportunity to participate in the development of the scope of the  
13 environmental assessment before it is prepared. Upon completion of the environmental  
14 assessment, the local unit of government shall publish notice in the EQB Monitor that the  
15 environmental assessment is available for review, how a copy of the document may be  
16 reviewed, that the public may comment upon the document, and the procedure for  
17 submitting comments to the local unit of government. The local unit of government shall  
18 provide a copy of the environmental assessment to the EQB upon completion of the  
19 document. The local unit of government shall not make a final decision on the permit until  
20 at least ten days after the notice appears in the EQB Monitor. If more than one local unit  
21 of government has jurisdiction over a project, and the local units of government cannot  
22 agree on which unit will prepare the environmental assessment, any local unit of  
23 government or the applicant may request the board to select the appropriate local unit of  
24 government to be the responsible governmental unit to conduct an environmental review of  
25 the project.

26 Subp. 6. **No local authority.** In the event a local unit of government that might  
27 otherwise have jurisdiction over a proposed large electric power generating plant or high  
28 voltage transmission line determines that it has no ordinances or other provisions for  
29 reviewing and authorizing the construction of such project or has no capability of  
30 preparing an environmental assessment on the project, the local unit of government shall  
31 refer the matter ~~must be brought~~ to the EQB for review.

1 Subp. 7. **Matters Excluded.** When the Public Utilities Commission has issued a  
2 Certificate of Need for a large electric power generating plant or high voltage transmission  
3 line or placed a high voltage transmission line on the certified HVTL list maintained by the  
4 commission, the local unit of government shall not address questions of need, including  
5 size, type, and timing; questions of alternative system configurations; or questions of  
6 voltage.

#### 7 **ANNUAL PUBLIC HEARING**

##### 8 **4400.6050 ANNUAL PUBLIC HEARING.**

9 Subpart 1. **Annual public hearing.** The board shall hold an annual public hearing in  
10 November or December in St. Paul in order to advise the public of matters relating to the  
11 siting of large electric power generating plants and routing of high voltage transmission  
12 lines. The meeting must be conducted by the EQB staff. At the meeting, the EQB shall  
13 advise the public of the permits issued by the EQB in the past year. The EQB shall invite  
14 representatives of other state agencies to attend the meeting and be available to answer  
15 questions by the public. An audio recording of the hearing must be maintained.

16 Subp. 2. **Notice.** The EQB shall provide at least ten days but no more than 45 days  
17 notice of the annual hearing by mailing notice to those persons who have requested notice  
18 and by publication in the EQB Monitor. The notice must be accompanied by a tentative  
19 agenda for the hearing.

20 Subp. 3. **Report.** The staff shall prepare a report of the annual hearing within 60 days  
21 after the hearing and submit it to the board. No action on the report is required.

#### 22 **ANNUAL ASSESSMENT ON UTILITIES**

##### 23 **4400.7050 ANNUAL ASSESSMENT ON UTILITIES.**

24 For purposes of determining the annual assessment on a utility pursuant to the act, each  
25 utility shall, on or before July 1 of each year, submit to the board a report of its retail  
26 kilowatt-hour sales in the state and its gross revenue from kilowatt-hour sales in the state  
27 for the preceding calendar or utility reporting year. Upon receipt of these reports, the  
28 board shall bill each utility as specified in the act.

##### 29 **4400.8000 PROGRAM ADVISORY TASK FORCE.**

30 The board may appoint a program advisory task force to provide advice and  
31 recommendations concerning development, revision, and enforcement of any rule or

1 program initiated under the act or this chapter. The board shall provide guidance to the  
2 program advisory task force in the form of a charge and through specific requests. The  
3 program advisory task force must be composed of as many members as may be designated  
4 by the board and its membership must be solicited on a statewide basis. The program  
5 advisory task force and its chair must be appointed for a one-year term.

6 **REPEALER.** Minnesota Rules, parts 4400.0200, subparts 4, 5, 6, 7, 11, 13, 14, and 19;  
7 4400.0600; 4400.0700; 4400.0710; 4400.0720; 4400.0800; 4400.0900; 4400.1000;  
8 4400.1100; 4400.1200; 4400.1210; 4400.1310; 4400.1400; 4400.1500; 4400.2600;  
9 4400.2710; 4400.2720; 4400.2800; 4400.2900; 4400.3000; 4400.3100; 4400.3200;  
10 4400.3210; 4400.3310; 4400.3400; 4400.3500; 4400.3600; 4400.3710; 4400.3800;  
11 4400.3900; 4400.3910; 4400.4000; 4400.4100; 4400.4200; 4400.4300; 4400.4400;  
12 4400.4500; and 4400.4900, are repealed.

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